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AN
ACCOUNT

OF

What past on *Monday* the 28th. of
October, 1689.

In the

HOUSE of COMMONS,

And since at the *King's-Bench-Bar*
at WESTMINSTER,

In Relation to the

Earl of CASTLEMAINE.

L O N D O N,

Printed for *Matthew Granger*, 1690.

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A N

ACCOUNT

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What past on *Monday* the 28th. of
October, 1689. in relation to the
Earl of *Castlemaine*, &c.

THE *Attorney General* being (on *Saturday* the 26th. of *October* 1689.) inform'd, that the Earl of *Castlemaine*, Sr. *Edward Hales* and other Prisoners of the *Tower*, were brought by their *Habeas Corpus* to the Hall to be bail'd, desir'd to know the Pleasure of the House in that Affair; who order'd that they should presently be all sent for to their Bar; which was done accordingly; Only the said Earl was not there; for he remain'd still in the *Tower*, having (it seems) made use of no such Writ; However the House directed the Governor to bring him up (as he did) the *Monday* following; And then the *Speaker* said to this Effect.

Mr. *Speaker* to my Lord.

MY Lord, the House having understood, That You went *Embassador* to *Rome*; and also took your place at the Board as a *Privy Councillor*

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without

without taking the Oaths (which are great Crimes, and against Law.) They have sent for you to know what you have to say for your self.

His Lordship's Answer.

IT cannot (Mr. Speaker) but put me into more then an ordinary Confusion, when I find my self in this place as a Criminal; especially, seeing (through the whole course of my Life) the Glory and Welfare of *England* has been my chief Aim and Endeavour. You are pleas'd Sir to lay so great a Charge upon me, that (without shuffling or impertinence) I might ask time to consider it; Yet since I well know how much you value your time, and since time also may make what I say suspected more of Artifice then Candor, I shall now (without further delay) let you and this great Assembly see (where so many of Birth and Quality are met) how far I am from deserving either censure or reproach. But (Mr. Speaker) before I go further, I must humbly beg these few Favours of you. *First*, that you would Pardon all *Tautologies* or want of Method, as beginning perchance in the middle, and ending again where I should have begun. *Secondly*, That you would not take any advantage at my Answers, for I shall be Ingenuous to the utmost; and hesitate
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at nothing you shall ask. And *Lastly*, if (through inadvertency or haste) I should say what might shock you, that you would not stand upon the rigor of the Words, but upon the sincerity and clearness of my Explanation.

Be pleas'd then to know, Sir, I was so far from seeking this Employment, that I did not so much as dream it was design'd me ; And when I knew it, I us'd my utmost endeavour to avoid it. My ignorance of the Kings Intentions appears by this, that (in the Year I went to *Rome*) returning out of the Country (according to my usual custom) after *Michaelmas*, I found a Protestant, a Person of Note at my House, who told me, that before I spoke with any Man, he was to bring me to my Lord *Sunderland*, and from thence I was to go to his Majesty ; Nor would he (scarce) afford me time to put my self in a tollerable order to attend them. My Lord *Sunderland* soon hinted to me, what the Kings intentions were ; And when I recurr'd to his Friendship, I had this Answer, or Words to this purpose ; That if Subjects should refuse their Kings Service in every thing that was troublesom or *Contre-Cœur*, all Kings would be in an ill Condition ; that my request was beyond his Power ; and that he believed I should find his Majesty very positive ; and so I did Mr. *Speaker*, I'll assure you. Nay to satisfie you yet more fully of my backwardness to this Journey ; can you think, Sir, that I, that had been at *Rome* more then once ; that had seen the

the Grandeur of so many *Roman* Embassies; and knew they exceeded in Splendor and Expence three times those to any Crown'd Head whatsoever, should not be extraordinarily concern'd at an Employment, which had for its Subsistence (as the Lords of the Treasury well known) no other Establishment then that to *Spain* or *France*, which (being 100 l. a week) amounts only to 5200 *Pounds per. annum*?

Having thus Sir, shew'd you how little fond I was of the thing, let me now (with Submission) ask you, what could I otherwise do in my Circumstances? For first I call all that's Good to witness, I never heard of Law against it, nor know of any to this very day; And yet (on the other side) I was not only Comanded by the King, but knew his Royal and Legal Power of Commanding the Service of his Subjects, and most particularly in Embassies, as appears by many old Examples; Nay, by a fatal one in this very Century; I mean the Case of *Overbury*, to which no body here (I'm sure) is a stranger. In the next place, Sir, what did I go to *Rome* for? Why only with a Letter; with a Complement from a profess'd and open Catholic King to his Holyness, as all Princes of that Communion do in the beginning of their Respective Reigns. Besides Mr. *Speaker*, as I know no Law, that forbad my Obedience, so I must needs say (and this without cramping or putting any Bounds to the Legislative Power) that no such Law can be made; For Sir, the Pope is a very considerable Temporal Prince, whose Territories border on two Great Seas, the *Mediterranean* and *Adriatic*; If then our Merchants should be by storm or other necessities, driven

driven into his Ports ; if *English-men* should be surpriz'd by any *Roman* Party as they travel in a Neighbouring Country, shall our Government (not to mention a hundred other greater accidents) want Power to send a Messenger to Ransom and Compound for them? What Law therefore was there ever yet fram'd, or can be enacted (let the Commerce or Intercourse between Nations be never so much broken and prohibited) but that a Commander in Chief, a General, and much more a King, may beat a Parley, dispatch a Trumpet, nay, send and receive Letters as often as occasion does require?

Now (Mr. *Speaker*) for Religion, I neither had any Commission concerning it, nor Transacted with his Holyness about it; And as no body ever did, or could lay any thing of that nature to my charge, so for some confirmation of it, I will appeal even to the *Aqua fresca* Houses of *Rome*, and to all the *Protestant* Gentlemen of our Nation there during my Embassie; for though what I tell you, Sir, be a Wonder, yet the Honourable Persons, who have resided in those parts, know it to be true, that for a Dish of *Chocolate* or a Dish of *Limonade*, one may know the measures and particulars of an Embassy in that City, as well as we do what passes within these Walls at our Coffee-houses. I am sure my under Servants have often smil'd at the *Grimaces* and *Mysteries* which my *Secretaires* us'd in the beginning to make before my *Audiences*; for they have told them (within few hours after my return) almost Word by Word what had pass'd. Give me also leave, Sir, to add one truth more, which will assure you that I had no dangerous intreague in hand;
and

and this is, that notwithstanding his *Holyness* never had the least imagination or thought, but that I was as real and sincere a Catholic as any Man living ; and the same thing also I can say of all the *Cardinals* ; and in fine, of the whole Court in general ; Yet none of them (and every *English-man* in Town knew it) but look't upon me as one, that if any Immunity of the Crown were in question, or any Temporal Concern of the Kingdom touch't, would stand as much in the Gap, and be in as Diametrical an opposition, as any Person of the *Reform'd Religion* whatsoever.

You see then Sir, both how, and why I went ; nor have I done any thing certainly to merit any Man's unkindness or ill-will ; nay, to lay yet further before you the hardship I am under, I shall state you a Case, not fetch't out of old forgotten Records, or Transacted in an Age disparate from ours, but of a Man attainted in this very House, in the memory of several now sitting, and even whilst I my self had the Honour to be a Member of it. The Case Mr. *Speaker* is *Axtels* the *Regicide* ; one whose Crime (I dare say) my greatest Enemies think I abhor in the highest manner ; nor do I mention the thing in favour of the Criminal, but in Honour of his grave and worthy Judges. *Axtell* you know (Mr. *Speaker*) was indicted for the Murder of *Charles* the *First* ; And to shew that he maliciously contriv'd and abetted it, the Kings Counsel urg'd his Commanding in the *Hall* at the *Fryal* ; his placing the Sentinels all about ; And in short, his performing there the whole Office of *Captain* of the *Guard*. The Prisoner answer'd ; but pray, Mr. *Speaker*, let me beg Pardon, if the Interval of almost Thirty Years has made me forget his Words, I

am sure the sense of them I have not ; I say, Sir, the Prisoner answer'd ; *My Lords I am under great oppression, I am hardly dealt with. Has Charles the Second been so Gracious as to pass over the ordinary transgressions of his stray'd Subjects, and to look upon the Obedience of Souldiers to their then Superiors, as if the Authority had been more Legal ? And shall I now dye (who was under Military Discipline) for that, which I must have presently died for, had I not done it ; to wit, had I not drawn up my Regiment, kept the Post order'd me, and perform'd the other duties, the Concourse being great and troublesome ?* Upon this the Judge reply'd ; I confess (considering the Kings merciful Resolutions) that your Argument is strong ; it has great weight in it ; But Mr. *Axtell*, did you do no more ? Did you only perform the Duty of a Commanded Souldier ? Who was it (I pray) that animated the Rabble ? Who beat the Souldiers for not crying Justice ? Who encourag'd spitting in the Kings Face ? And who barbarously revil'd and threatned a Noble Lady, that in the transports of her zeal (when she saw her Sovereign abus'd, when she heard such Blasphemy against him, and all this Father'd upon the Nation) made a noise or stir in the Court ? These things therefore Sir, being prov'd against him ; He was convicted, condemn'd, and so paid a Debt to Justice, and to the Sacred Ashes of that great and just Man.

Now Mr. *Speaker* to application ; And *first* (after a little glance on the tenderness of these Judges, when any necessity could be pretended) let me with your Pardon ask you, shall I suffer as a Transgressor of the Law, were there any, when I must have suf-

fer'd by the Law, had I refus'd his Majesties Orders and Commands? But Sir, if you demand, did I do no more then carry a Letter, or go with a Ceremonious *bow d'ye* from the King? I must answer yes, and a great deal more too. For my House was an *Asylum*, a Place of Refuge to all distress'd or oppress'd fellow Subjects. If Seamen mutiny'd or had any contest with their Captains, here a Reconciliation was made, and here they return'd to their Obedience, if the Captains themselves (fraughted for the *Camera*) were delay'd their Money, or misus'd by under Officers, they quickly found Redress, and often (by my interest) receiv'd more then they themselves expected; And if the question happened about quantity, or how Goods were condition'd at delivery, the Verdict I am sure went still on their side. Nor was my care confin'd to *Rome* only, but reach't to all the Factories of *Italy*: For the *Consuls* themselves, nay every private Person found both an easie access to me, and an indefatigable Zeal in their concerns; so that the Merchants in General that had to do in those Parts, were far from being behind hand in their thankful acknowledgments. Nay one of the greatest Companies of our Nation, I mean that for *Turkey*, not only return'd me their thanks very heartily by Letter, but did it again by Word of Mouth after my Arrival home.

I am sure (Mr. *Speaker*) if the Employment I submitted to were a fault, I have already not a little suffer'd for it; for I never put bounds (as our Travelers, as well as my own Officers fully know) to any Expence that could be imagin'd for the Dignity of the

the Nation ; And give me leave to tell you also Sir, that though the Name of *Rome* may be harsh and ungreatful to your Ears, yet what I did, was with a good intention, and like a true and faithful *Englishman*. For had I been sent with a Character to *Constantinople*, wherethey are *Mahometans* ; or to *China*, where *Gentiles* ; the *Eclat* or Figure which I should have endeavour'd to make, would never be consider'd by you as an Honour to their Religion, but our Country ; therefore since it is a Disparagement and great Reflection to a Kingdom, to come below or short of others in any thing that is public and of note, I cannot but have (at least) faint hopes, that you will have some consideration, some opinion of an Embassador (though at *Rome*) that kept up (to his Power) the Glory and Grandeur of *England*.

But Mr. *Speaker*, not to trouble you longer on the present Head, Ple end when I have told you this ; That if I have done amiss in obeying the King's Commands, no *Consul* that has pursu'd a Pirate or *Bandite* to *Rome* ; No private Factor that has follow'd a Debrer thither ; Nor in short any Man that has Written so much as one Letter to that City, though it were to demand his own, but is a far greater Criminal then my self, and lyes at the mercy of every Enemy to be Indicted as a Contemner and Breaker of the Laws.

Your second Charge Mr. *Speaker*, is my being a *Privy Counsellour*, without taking the appointed Oaths ; To which I can truly say, they were never offer'd me ; though I must also confess (for I shall be sincere with you in every thing) that I believe, nay that I am certain, I should not have taken them, had

they been offer'd ; So that I do acknowledge the Omission a fault against Law—

Here the *Speaker* thinking that his Lordship had made an End, desir'd him to withdraw ; but being inform'd that he had not done ; He excus'd the Interruption, and then his Lordship went on.

I say (*Mr. Speaker*) I acknowledge this a fault against Law, were there not several things of weight, that will (I hope) justify me to you ; And here, Sir, I must entreat you, not to conceive that I come now to defend or make good the *Dispensing Power*, but only to shew you how necessarily I was driven and induc't to the aforesaid Omission ; for (*Mr. Speaker*) in controversies and disputes, what can one doe, but recur either to his own Observation, or to the opinion of learn'd Men, and Professors in the Science?

In the *first* place then, when I began to examine my self as to the Right the King claim'd and asserted ; I saw *Non obstantes* deem'd Legal, which signified to me *Dispensing* ; I found the Power of continuing Sheriffs own'd for many Ages to be undoubted Law, and yet I knew there was a positive Statute against it ; Nay I remember'd an Act, which I my self had in this House given my Vote and Consent to, *viz.* That about the *Regulation of Carriages and Waggon*s ; Or if this be not the exact Title, I must beseech you to Pardon my Treacherous Memory, and 'tis I'll assure you the only Traytor I ever yet succoured or supported ; I say Sir, I remember'd this very Act (almost as soon as made) suspended by *Charles the 2^d*s. Proclamation without the least Question

sion or Murmur ; and I took so much notice of it, as to make even then this Reflection (and I do assure you upon my Honour 'tis true) That though our *Monarchs* could not *impose* and *abrogate Laws* o themselves, yet they had the *Power* (I perceiv'd) to *respite* them.

In the *second* place (Mr. *Speaker*) if I went abroad ; I mean if I consulted the Thoughts and Sentiments of others, I found not only Great Men of the long Robe, but the Judges also themselves declaring in favour of this Prerogative ; And the interpretation or determination of these Sages was always told me to be Law, till a new Law or a new Explanation should be enacted. What would you then (Mr. *Speaker*) have me to do, who was call'd to the Board by the King ; who could not in Conscience take the Oaths ; and yet had no reason to think I committed (in not taking them) a Crime ; seeing the Law was thus openly expounded and publisht ?

And now Sir, since I have been forc't to mention my Religion, which I know is a legal Fault, and of a high Nature ; I must not forget also to celebrate the Goodness of this House, which has pardon'd the Fault, even in the solemnest Way, and by the solemnest Act that ever past since *Magna Charta* ; to wit, *The great Act of Oblivion*. Give me leave Sir, to say this too, for I can justly do it ; That being so faithful and so true an *Englishman*, I neither should nor could (I am sure) have ever, during my Life, offended my Country, but in my Religion. Pardon also I humbly beseech you this digression, and together with it the Incoherences and Disjunctions all along ; Nor shall I any ways doubt of it, since
you

you so well know how uneasy and troublesome a long discourse (which my Circumstances have now required) must needs be to one, that wants both Eloquence and Practice.

But (*Mr. Speaker*) to return where I left, and so conclude; How Sir, I pray you (and I demand it again of you with great respect) could I think the Omission (as I said) of the Oaths a breach of the Laws, when our Guides, who had the Laws in their keeping, told us explicitly, and without reserve the said Oaths were not necessary? Shall I then suffer that had neither Buoy nor Mark to direct me? certainly no; for if there were a fault, 'tis not I must suffer, but the Judges, and those knowing and deputed Pilots, that hung out (it seems) the wrong Flag and Signal. I have Sir, but one Word more to trouble you with, and this I speak in behalf of all here; Nay in behalf of all the People of *England*; That if I now undergo your Severity, and that single Persons (notwithstanding the Determinations and Judgments of our Courts of Justice) must be still responsible; No Man can be safe, no Man can be at rest; for no body that acts can know (as accidents will often happen) whether he be Innocent or Guilty.

Mr. Speaker, I am in great disorder for imposing thus on your Patience; and especially seeing I must yet presume to do it, one thing more occurring to me (as I hope) for your further Service, or at least Satisfaction; And 'tis to let you know how I came to be a Prisoner, and why I continued so thus long. Be pleas'd then Sir, that I tell you, that as soon as the King first left *White-Hall*, I thought it decency
to

to go out of Town; and therefore three days after I took Coach for *Montgomery-shire*, where of late I us'd to reside in the Summer time. On the Borders of that County, at a small Corporation called *Ofwestree*, I was first stopt by the Rabble, and afterwards detain'd (with a strong Guard) at my Inn by the Major; though no body (as he confest) made any Oath against me; and tho he had no orders (as he said) from *London* for it; Nay (after a Months restraint) he deny'd me my Liberty upon Bail, notwithstanding two Neighbouring Lawyers (whom I sent for) assur'd him he could not justify the refusal by Law. I do not Sir, complain of any Incivility, either from him or the People; for I was us'd with respect enough; But I judge it extreamly fit to let you see how the Liberty of a Subject was willfully invaded by a Magistrate, and how little conscious I was of any Guilt, since instead of flying, I went to a place where I was known by every body.

In fine Mr. *Speaker*, after a confinement of Seven Weeks, I was sent for up, and brought hither by a Party of Horse; Nor was I ever question'd or examin'd by any body, but kept (upon the suspension of the *Habeas Corpus* Act) at a Messengers House for Three Months; And when the said Act was suspended the last time, I was Committed (by my Lord *Shrewsberry's* Warrant) to the Tower, for *Suspicion of treasonable Practises*.

His Lordship having ended, retir'd with the Serjant at Arms to his Room, where after a little stay, he was sent for in again; And then the *Speaker* told him; That since he said his Journey to *Rome* was with a Letter of Civility to a Temporal Prince, and not about

about Religion, The House (to be more fully satisfied of it) desir'd to see his Instructions. To which his Lordship thus answer'd.

I hope (Mr. *Speaker*) though I shall readily acknowledge my own natural Weakness, you will not yet think me so imprudent, as that (in a time of such troubles and distraction) I would keep Papers by me, and especially about *Rome*, to render my self lyable to every malicious Man's Extravagancy and Comment. This therefore caus'd me Sir (the Night before I went towards *Wales*) to burn all Papers that came to hand; and truly some amongst the rest, that I have since wanted; Nay this I can also justly aver, that I remember not now one Word of those Instructions, having (I'm confident) never read them twice; only this I remember, they were Things of Course; Words of Form; and needed no further consideration. Yet Sir, that you may plainly see my Sincerity, and how far I am from any design of illuding and deceiving you, I shall shew you how you may retrieve them, when I tell you, that Mr. *Monstevens* brought them me, and that they were drawn (as I take it) by Mr. *Bridgman*; For I'm certain they came from my Lord *Sunderland's* Office.

But my Lord (reply'd the *Speaker*) had you no private Instructions? None; Answered his Lordship. What none at all, said Mr. *Speaker* again. None I'll assure you Sir, reply'd his Lordship; unless the Kings Orders, to demand a Cardinals Cap for Prince *Reinaldo of Este*, were private instructions; Nor do I certainly know, whether those Commands were in
my

my foremention'd Instructions, or whether I had them by Word of Mouth.

My Lord, said the Speaker, I have another question to ask you; to wit, who of the long Robe told you of the Kings Power of Dispensing, and that there was no necessity of taking the Oaths?

I am Sir (answer'd his Lordship) infinitely troubled, if I have through want of Care, or by any improper Expression given you occasion to misapprehend me; For I never askt any particular Man of that Profession about this Affair; But my meaning was (and I hope my words are not contrary to my meaning) that the said Power was manifestly and openly declar'd to be Law by Judges and Lawyers; So that I deem'd it no Solecism in Discourse to mention it as if they themselves had told it me.

Then his Lordship retir'd again, and after a long Debate, the House pass'd this Order. *That the Earl of Castlemaine stand committed to the Tower by a Warrant from this House for High Treason, for endeavouring to reconcile this Kingdom to the See of Rome, and for other High Crimes and Misdemeanors.*

As soon as his Lordship was inform'd of this Vote, he entreated a Member to let the House know, that he had a Word or two more to trouble them with; So that being brought in, the Speaker told him, that the House having notice (he had something further to acquaint them with) was very willing to hear him.

Mr. Speaker (reply'd his Lordship) I have nothing more to say about the former Matters; but understanding your Pleasure, I thought it my Duty to

let you know, how the custom of the Tower as to Prisoners is chang'd ; for in course heretofore (unless there were a particular Order of State to the contrary) they had the Liberty of the Tower ; that is to say, they could walk about at seasonable hours with a Warder ; But now as soon as one is committed (though it be upon bare suspicion, as I was) he is confin'd to his Lodging, and hindred from the Consolation of seeing his Friends, till (after much sollicitation and trouble) leave be granted by the *Secretaries*. Therefore Sir, being morally certain that I shall be confin'd again as soon as I return, I humbly desire the Favour of this Freedom ; It being also what I hitherto enjoy'd after I had been restrain'd for some days in the aforementioned Manner.

This said, his Lordship went out, and then was carried to the Tower, where he was made a close Prisoner, as he foretold, though what he moved, occasion'd the following Vote.

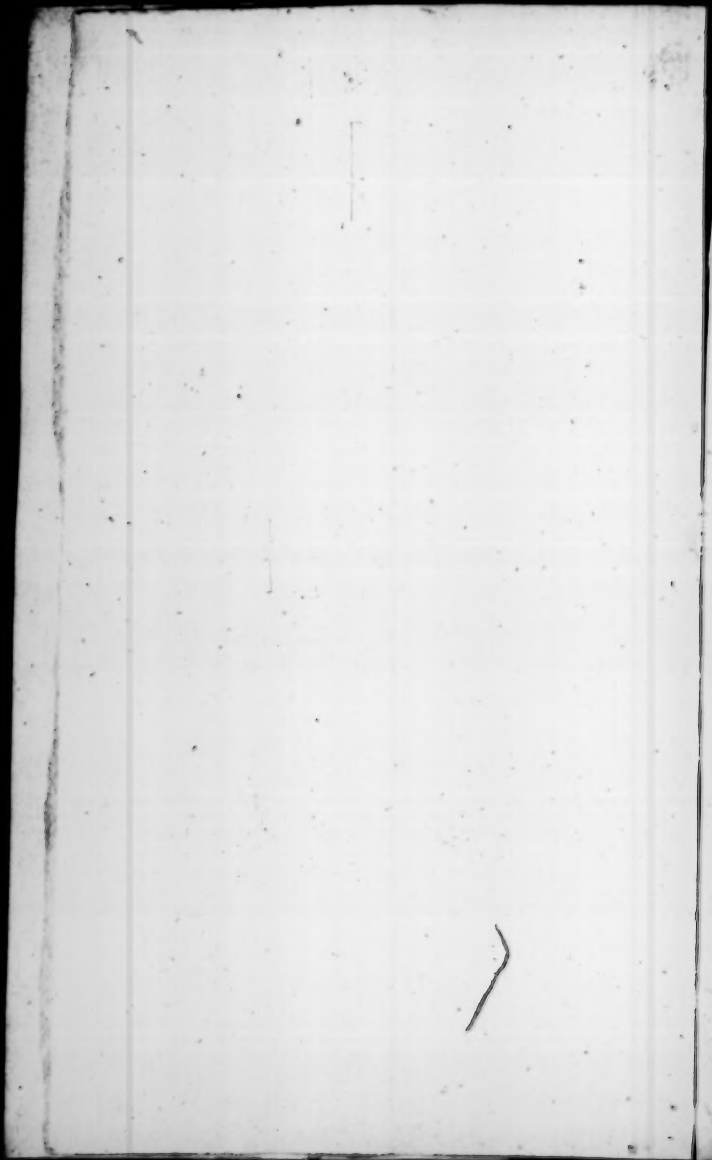
That a Committee be appointed to bring in a Bill for the better regulating the Imprisonment of the Subjects of this Kingdom, and to settle the Fees of Goalers ; And it was likewise referr'd to them, to examine into the abuses of Goalers towards their Prisoners which have been heretofore Committed.

On *Wednesday* the 5th of the following *February*, His Lordship mov'd for his *Habeas Corpus*, and was brought by the Lord *Lucas*, (the present Governour of the Tower) to *Westminster*, on the 10th ; So that appearing at the *King's-Bench*, his Commitments were read, and Mr. *Attorney* having nothing to object against his being Bail'd, the Court awarded

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it upon the Security of Thirty Thousand Pounds;
that is to say, a *Recognisance* of Ten Thousand
from himself, and Five Thousand a piece from his
four Sureties; which were, *John* Earl of *Bath*,
Thomas Earl of *Aylisbury*, *Thomas* Earl of *Sussex*, and
Charles Lord *Landfdown*.

FINIS.



AN ACCURATE
DESCRIPTION
OF THE

United Netherlands,

And of the most considerable Parts of
Germany, Sweden, & Denmark.

CONTAINING

A succinct Account of what is most
Remarkable in these Countries: And
Necessary Instructions for Travellers.

Liber Bibliothecae Sdinensis
Together with an Exact

RELATION

Of the ENTERTAINMENT of

His Most Sacred Majesty

King *WILLIAM*

At the *HAGUE.*

~~1691.~~

Written by an English Gentleman.

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